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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/550,545	04/14/2000	Shawn Scotzin	2635-020-03 (RN23)	8286

72455 7590 11/07/2008

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EXAMINER	
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ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
11/07/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Applicant alleges the combination of Lau in view of Li does not disclose:

> "the circuitry determines whether or not the format of the corresponding music track is compatible with the corresponding music renderer such that the music renderer can render music from the music track;" and
> "in response to a determination that the format is not compatible with the music renderer, reformats the music track to a format that is compatible with the music renderer[.]"

Applicant substantiates this allegation by stating:

Li 6,345,279 is directed to an apparatus that adapts Web documents for rendering on different computing systems. In specific, Li 6,345,279 teaches a transcoding process that can recognize a multimedia document having content, such as text or video and then change the content such that it may then be rendered on a device of less computing ability. For example, a Web document having video may not play on a simple pager. Thus, the system of Li 6,345,279 may transcode the video feed such that just still images are displayed at the pager. In essence, the content is changed to a simple format for a simple device. See generally, col 2 line 19 to col 3, line 18. Examples disclosed in Li 6,345,279 include changing the special size of an image, changing the size of text; changing the size of video images.

Examiner disagrees. This is an overly simplistic view of the Li reference. Li discloses many different capabilities, some of which are noted above by Applicant. One omission by Applicant however, is the ability of Li to transcode audio. Not only is Li able

to transcode audio to text, Li also discloses an alternative transcoding process that can **compress** the content [emphasis added]. Thus, LI is not limited to just converting speech or audio to text, but is capable of compressing both the audio and video in order for it to be received by certain devices.

Applicant further alleges:

> This overly simplistic view of content files, however, simply does not compare to the more complex nature of dealing with differing formats of music files. Music files must necessarily be rendered in a proper format for playback or else the music loses all meaning. One cannot make the music "smaller" or have less text. Through compression, the size of a music file may be made smaller, but the underlying music track itself is still rendered in the same recognizable manner. Thus, even though a music track may be changed from a format suitable for an MP3 player from a format suitable for an Audio CD player, the fact remains that the underlying music itself is still same.

Examiner disagrees. Compressing an audio file, as clearly shown to be taught by Li as stated above does change the 'format' of an audio file. Even though the same underlying music may be the same, this doesn't' change that its reproduction/decompression procedure differs depending upon its compression or format. Additionlly this argument is moot because this is exactly what Applicant is attempting to claim, only very broadly. Converting, for exmple an MP3 file to AAC or WMA will not change the underlying music, but rather the format of the file. This is the same as what Li is disclosing.

Applicant further alleges:

> Li 6,345,279 does not show any cognizance or recognition of differing music file formats. The closest Li 6,345,279 comes to teaching or even suggesting such a transformation is an application of changing an audio file to text. See generally col 5, lines 26-63 of Li 6,345,279. It simply does not follow that a music file can be converted to text. No person of ordinary skill in the art would look to a system that describes converting an audio file (presumably a speech file, like a voice mail message) into a text file. Somehow, Tchaikovsky's "Overture of 1812" is far less impressive when converted to text.

Examiner disagrees. As shown above, Li is not only limited to converting audio to text, but can also compress audio in a transcoding procedure. This compression itself is changing the format of the music file.

Applicant further alleges:

> Li 6,345,279 cannot possibly be construed to teach or even suggest "in response to a determination that the format is not compatible with the music renderer, reformat the music track to a format that is compatible with the music renderer;" as recited in claim 91. Consequently, no prior art of record, whether considered alone or in any permissible combination, teaches or suggests at least this recitation of claim 91.

Examiner disagrees. This conclusory allegation fails to provide reasoning as to why this limitation is not taught. Examiner submits this limitation is clearly taught by the combination of Lau in view of Li as shown in the previous rejection.

Applicant further alleges:

> Moreover, applicants submit that the Office Action is using hindsight reasoning. As a matter of law, obviousness may not be established using hindsight obtained in view of the teachings or suggestions of the applicants.1 To guard against the use of such impermissible hindsight, obviousness needs to be determined by

> ascertaining whether the applicable prior art contains any suggestion or motivation for making the modifications in the design of the prior art article in order to produce the claimed design. The mere possibility that a prior art teaching could be modified or combined such that its use would lead to the particular limitations recited in a claim does not make the recited limitation obvious, unless the prior art suggests the desirability of such a modification.

Examiner disagrees. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The reasoning for combining the two references is clearly given in cols. 1 and 2 of Li and stated clearly on page 6 of the outstanding action.

Applicant further states:

> "claim 93 recites "the hierarchical library tree graphically depicts more than one music renderer node, wherein each music renderer node identifies a respective one of a plurality of music renderers coupled to the device." The prior art of record simply does not show any cognizance of differing music renderers that may each, in turn, have different rendering formats for music files. Applicant submits that claim 93 is allowable over the prior art of record for at least this additional reason."

Examiner disagrees. Each of these features has been clearly shown to be obvious. The hierarchical tree being obvious as rejected on pages 3 and 4 of the outstanding action, coupling the music renderers (1202 devices coupled to the system, can be multiple col. 13), each node identifies a respect one of a plurality of music renderers coupled (i.e. displayed in the hierarchical fashion, all of the connected devices). The different music renderers having different formats is irrelevant as this feature is not positively claimed.

Applicant further states:

> As another example, claim 94 recites "the music renderer includes at least one of a stationary device, a stereo system, a portable device, a Diamond RIO, a RCA Lyra, a portable radio, and a personal display adaptor." Notwithstanding the claim that the prior art of record teaches these devices, it simply does not follow that the prior art of record shows any cognizance of the unique nuances of dealing with differing formats for music tracks according to different devices. To follow such logic, one would then assume that all new technologies created for powering a vehicle are rendered obvious because the internal combustion engine accomplishes the moving of a vehicle. Therefore, the logic presented in the Office Action would consider electric vehicles, hydrogen vehicles and natural gas vehicles as obvious variations of a gas powered vehicle because all of these many examples are obvious variations of each other. Such broad, conclusory statements do not adequately address the issue of motivation to combine, are not evidence of obviousness, and therefore are improper as a matter of law.1 Applicant submits that claim 94 is allowable over the prior art of record for at least this additional reason.

Examiner disagrees. The rejection clearly shows transmitted uncompressed or compressed audio to a device based upon its capabilities. This is the key inventive aspect of the Li invention. As applied to Lau, all elements of the claim are met.

Specifically, the devices of Lau, now can connect to the system and the system can compress or not compress the audio data sent to the devices as taught by Li.

/CURTIS KUNTZ/

Supervisory Patent Examiner, Art Unit 2614